

Lewis County Planning Commission

Public Hearing

Lewis County Courthouse
Commissioners' Hearing Room – 2nd Floor
351 NW North St – Chehalis, WA

January 13, 2015 – 6:00 p.m.

Planning Commissioners Present: Russ Prior, District 3; Bob Guenther, District 3; Sue Rosbach, District 2; Mike Mahoney, District 1; Richard Tausch, District 2; Leslie Myers, District 1

Planning Commissioners Excused:

Staff Present: Lee Napier, Patrick Babineau, Glenn Carter, Pat Anderson

Others Present: Please see sign in sheet

Handouts/Materials Used:

- Agenda
- Meeting Notes from December 9, 2014
- Staff Report
- Draft Zoning Code Amendments for I-502

1. Call to Order

Chair Mahoney called the meeting to order at 6:04 p.m. The Commissioners introduced themselves. Ms. Napier introduced Leslie Myers, the newly appointed Commissioner to District 1. Ms. Myers stated she has been in real estate for 14 years, 10 years in finance, and grew up in the construction industry. She was pleased to be able to serve on the Planning Commission.

2. Approval of Agenda

There were no changes to the agenda and so approved.

3. Approval of Meeting Notes – December 9, 2014

There were no corrections to the meeting notes of December 9, 2014 and so approved.

4. New Business

A. Election of Officers

Ms. Napier, Director of Community Development, stated there was a quorum present and that Commissioner Mahoney had been appointed by the Board of County Commissioners for another 4-year term. She asked for nominations for Planning Commission Chair for 2015. Commissioner Guenther nominated Mike Mahoney; Commissioner Prior seconded. There were no other nominations. The vote was unanimous for Mr. Mahoney.

Chair Mahoney asked for nominations for Vice Chair. Commissioner Rosbach nominated Bob Guenther; Commissioner Prior seconded. There were no other nominations. The vote was unanimous for Mr. Guenther.

5. Old Business

A. Public Hearing on Recreational Marijuana Land Use

Chair Mahoney stated the hearing would be on proposed land use regulations for the production, processing and retail sales of marijuana. At this time, none of these activities are legal in Lewis County and it will be up to the Board of County Commissioners to decide if and when they will be legal. That is not what will be discussed at tonight's hearing. The Planning Commission will be taking testimony specific to land use rules and regulations for the different types of marijuana licenses if the decision is made to allow those activities in Lewis County.

The Chair recognized Ms. Napier.

Ms. Napier stated in preparation for tonight's hearing the Planning Commission conducted six workshops. During those workshops the Commissioners deliberated about what, if any, land use regulations or amendments to LCC Title 17 would be appropriate for purposes of recreational marijuana in the unincorporated areas of Lewis County. After significant deliberations, the Planning Commission asked the planning staff, Patrick Babineau, Glenn Carter, John Kliem and herself, to develop proposed code amendment language. The Planning Commission also asked staff to get feedback from pertinent Lewis County departments about possible impacts to county departments if a code amendment were approved. This was done to ensure that there are no unintended consequences as a result of action taken. Those comments will be brought back to the Planning Commission with the public comments.

Ms. Napier stated this meeting was noticed for public hearing on December 23, 2014 in the Chronicle. The proposed code amendment was available for review at the Community Development office, on the Lewis County website, and at the libraries and senior centers throughout the county.

A SEPA threshold has not been issued for this code amendment at this time but it is procedurally something that must be done.

The proposed code amendment has four pieces. Five definitions have been added; changes to LCC Title 17 zoning summary to rural lands and LAMIRDS are in the form of tables. Tables 1 and 2 indicate that production, processing and retail sales may be located in those particular zoning districts with a Special Use Permit. There was also an amendment to the resource lands. In Lewis County those lands are forest, agricultural and mining resource lands. This particular code affects forest lands and agricultural lands. Some types of marijuana production and processing would be allowed in these zoning districts with a Special Use Permit. A Special Use Permit is a proposal that is reviewed by a hearing examiner. Part of what informs staff decision and hearing examiner decision is the fourth consideration which is supplemental provisions to the code.

Those are the highlights of the process which got us to this hearing and the code provisions. She asked for questions.

Commissioner Prior asked Ms. Napier to elaborate on the supplemental provisions. Ms. Napier stated that supplemental provisions are development standards by which uses may be allowed. There are criteria that staff uses to review proposals and boundaries and provisions that are put on applications. They are helpful for a proponent to know what the expectations are for a particular use should they decide to pursue it.

Commissioner Prior asked if they would be specific to each application. He asked if staff would review the initial submittal and then ask for additional information or supplemental provisions. Ms. Napier stated because it is spelled out in the code it gives the applicant advance notice that these are the expectations that staff would hope to see in the application. Quite often they are useful for people in developing their proposal; they know what is expected and the application comes forward always fulfilling those provisions. Currently they are used for accessory dwelling units, secondary uses of structures and home occupations. These would be similar.

Chair Mahoney stated that testimony would be timed. Each person wanting to testify would have five minutes. He explained the timer so everyone would know how much time was left. He encouraged everyone to put their thoughts in writing and submit them. Those will become part of the permanent record and will be considered by the Commission.

Ms. Napier stated that written testimony will be accepted until 4:00 p.m. on January 20 at Community Development, 2025 NE Kresky Avenue in Chehalis. Testimony can also be faxed or sent via email.

Chair Mahoney opened the public testimony portion of the hearing.

Jedidiah Haney is the president of Cause M, a business advocacy group based in Yakima that deals with cannabis. He asked the Commission to reconsider the greater restrictions being imposed on the proposed marijuana industry in Lewis County. These restrictions may make sense for smaller properties, but this is a cottage industry that is working its way into formation of a legitimate industry and more restrictions that are put on the amount of land that someone possesses limits the ability for “mom and pop” to transition into this legitimacy. In Yakima recreational marijuana is still banned. Things are not better in Yakima because of that. People who invested a lot of money are not doing very well. The illicit market has flourished and is laughing at the proposed new legitimate market because without full cooperation of a state-wide regulatory scheme there are pockets of this industry which may be doing well but most of it is not doing well. To compete against a large, well-established illicit market we need cooperative measures with our jurisdictions. Mr. Haney asked the Planning Commission to take a good look at what barriers of entry it is imposing on proposed applicants. While some may be appropriate, he noticed that the Commission is limiting out retail in light industrial. You may ask why someone would want to go to retail in light industrial. In Union Gap, where retail sales, production and processing is allowed, they have found no issues. The city planner stated there has been no greater impact on local law enforcement.

Mr. Haney stated there would be humps in the road but his group is coming as an aspiring nascent industry looking to find legitimacy asking for cooperation. We are facing restrictions and would like you to work with us.

Summer Chapman, Salkum, is a Tier 1 licensee. She spoke to the Tier 2 verbiage and thought there may be additional verbiage to delineate the types of processors. The main concern when discussing the processors was hazardous materials and/or waste. There are instances where hazardous waste will not come into play and perhaps some additional education or language may need to be thought of for that type of processor so that you aren’t pushing people that aren’t going to be utilizing any sort of hazardous chemicals or waste products in making infused edibles.

Chairman Mahoney stated that the Planning Commission had broken processing down so that the drying, curing and packaging for retail sale of the bulk product is acceptable in all of the places where production is allowed. If someone is a producer and growing the marijuana they can also do that type of processing. The Type 2 has further limitations in the proposed language.

Liz Halloch, Lyle, Washington, stated many of these folks have been under financial burdens over the last year, being unable to open their doors. This is going to be a major export product in the future and we want to make it a seamless transition for our farmers. In Klickitat County we re-enacted a moratorium. We have a problem where our farmers are not included in the right to farm code and subjective language like 'we don't want a specific smell' is going to take attorneys to file nuisance lawsuits which can get expensive. According to Washington law, marijuana farmers are not specifically exempt from nuisance law but they don't fall under farming for tax purposes so we have had a big problem with nuisance lawsuits.

Ms. Halloch stated she owns a retail store in Maryhill and has never had a problem with the police. She pays for her own alarm system; she had to pay for the police when she accidentally hit the panic button. The problem in Klickitat and Benton County is being close to I-84 where the drugs get chopped packaged in the rural areas and go to Seattle and Portland. This experiment was to get rid of the black market and all of the ancillary evil so they want a seamless transition. There will be numerous benefits: hiring people, filling empty stores. Why is the UGA not included in a reverse spot zoning? She has not heard of any crime – there was one medical crime that had nothing to do with I-502. Crime has gone down. She would like to see a seamless transition for this new industry, cottage industry, small growers, mom and pop shops.

Tad Seaton, Lewis County at-large applicant, currently has a zoning of UGA which zones him out. He is asking that some consideration be given to more zoning. He has been financially impacted by this spot zoning.

Tom Lauerman, Independent Cannabis Producers Coop, and PNW farm regime. He is from Vancouver, WA and asked the Planning Commission to have consideration for the small farmers who are struggling. He is an organic farmer, growing vegetables. That wasn't cutting the bills and cannabis came up and they are trying to make it in the new economy and he hopes that the Planning Commission would take into consideration the small farmers. If you allow these growers they will use a huge amount of electrical which is money going into your pockets on all different levels. He asked that the fees are kept down for the small farmers so they can make it in this economy.

Courtney Braswell, Pacific County, was in attendance because her employer is an I-502 licensee in Lewis County. They are that small mom and pop business and have a lot invested into this and hope to find a good location, open a business and return some of the money that they have invested and make a profit. They appreciate all of the time that the Planning Commission is taking to plan this but asked that it take into consideration the small things in the ordinance, such as the smell and things like that, which will hinder them in finding a decent location to run their store.

Gabe Koth, Lewis County, is a Tier 1 applicant. He addressed the 100' setback from any property line. The WAC states that the surveillance must be up to 20 feet. In his opinion, five times that amount for a buffer zone is unnecessary. It will shut out a lot of businesses for no practical reason. He thought 2 1/2

times the surveillance zone is a more reasonable and fair distance. It won't unnecessarily shut out businesses. He knows of someone who has property right on a road but is a quarter mile from any neighbor. The 100' buffer would not allow him to operate his business and he did not think that was fair. He encouraged another look at the 100' setback.

John Murphy, I-502 potential farmer, stated the 502 farmers he has met are business people who are attempting to make a living at it. He looked for a site in Lewis County and found one in the Chehalis Industrial Park that meets all of the criteria. In order to go in there, the Planning Department says it is fine but Lewis County ordinance says in order to get a business license is a different thing. Is this hearing moot if, according to the ordinance, in order to get a business license here we need proof of registration, approval from US Attorney General/Drug Administration? Is this ordinance going to trump what the Planning Commission is trying to do?

Cayce Richards, resides in Lewis County, recently coming from Pierce County. She has seen the medical cannabis community be the one recession-proof industry in Tacoma. Empty stores were being filled up with little mom-and-pop medical cannabis collectives. She could see the benefit to the community with auxiliary businesses that did not exist before. There were business licenses being purchased, and business and operating taxes being paid and utilities being used. If there was a study done there would be a larger use of utilities over the last seven years than the growth of population would normally suggest. That is a direct correlation with the medical cannabis community. The moratorium on medical cannabis in Lewis County has kept a lot of businesses closed and a lot of storefronts empty. She appreciates what is being done for recreational marijuana, and she believes there is a use for it, but there is a really strong need for the medical collectives.

No one else wished to testify and Chairman Mahoney closed the oral testimony portion of the hearing. He reiterated that the Planning Commission would be looking at specific land use regulations to recommend to the County Commissioners if they decide to license these businesses. The County Commissioners will be holding public hearings in the next few months.

Ms. Napier stated she would like her opening comments to be entered into the record.

Chair Mahoney again asked that written testimony be submitted by 4:00 p.m. January 20. He thanked everyone for attending the hearing.

6. Calendar

The next meeting will be a workshop on January 27, 2015, review of the public testimony and the code language.

Ms. Napier stated 2015 will have several tasks. Pat Babineau will be presenting an outline so the Commission will know what to expect.

7. Good of the Order

Chair Mahoney welcomed Ms. Myers again.

8. Adjourn

The meeting adjourned at 6:50 p.m.